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*Attorneys for Defendants Gavin Newsom, in his
 official capacity as Governor of the State of
 California, and individually; Gustavo Velasquez, in
 his official capacity as Director of the State of
 California Department of Housing and Community
 Development, and individually; and the California
 Department of Housing and Community
 Development*

IN THE UNITED STATES DISTRICT COURT
 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 SOUTHERN DIVISION

**CITY OF HUNTINGTON BEACH, a
 California Charter City, and
 Municipal Corporation, the
 HUNTINGTON BEACH CITY
 COUNCIL, MAYOR OF
 HUNTINGTON BEACH, TONY
 STRICKLAND, and MAYOR PRO
 TEM OF HUNTINGTON BEACH,
 GRACEY VAN DER MARK,**

Plaintiffs,

v.

**GAVIN NEWSOM, in his official
 capacity as Governor of the State of**

8:23-cv-00421-FWS-ADS

**CORRECTED REQUEST FOR
 DECISIONS (L.R. 83.9-2.)**

Courtroom: 10D

Judge: The Honorable Fred W.
 Slaughter

Trial Date: September 10, 2024

Action Filed: March 9, 2023

**California, and individually;
GUSTAVO VELASQUEZ in his
official capacity as Director of the
State of California Department of
Housing and Community
Development, and individually;
STATE OF CALIFORNIA
DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT;
SOUTHERN CALIFORNIA
ASSOCIATION OF
GOVERNMENTS; and DOES 1-50,
inclusive,**

Defendants.

Counsel for Defendants Gavin Newsom, Gustavo Velasquez, and the California Department of Housing and Community Development (HCD) (collectively, the “State Defendants”), and counsel for Defendant the Southern California Association of Governments (“SCAG”) respectfully request, pursuant to Local Rule 83.9-2, that this Court make a decision on SCAG’s Motion to Dismiss Plaintiffs’ First Amended Complaint (Doc. No. 44) and State Defendants’ Motion to Dismiss Plaintiffs’ First Amended Complaint for Lack of Jurisdiction (Doc. No. 45). These two motions have been under submission since June 22, 2023 by operation of Local Rule 83-9.1.1(a).

Under the Local Rules for the U.S. District Court for the Central District of California, the Court has 120 days from the submittal of a motion to rule on the motion. *See* L.R. 83-9.1 (“The Court shall render and file its decision on motions and non-jury trials within 120 days after the matter is submitted for decision.”). The Local Rules define “submitted” as either “the date the Court announces on the record in open court, at the conclusion of the hearing thereon, that the matter is submitted for decision” or “the date the last memorandum or other document is

1 permitted to be filed.” L.R. 83.9.1.1(a). “If no oral argument is conducted on the
2 motion, a motion shall be deemed submitted for decision as of the date the last
3 memorandum or other pleading is permitted to be filed.” *Id.*

4 Because the Court did not hear oral argument on either motion (*see* Doc. No.
5 66), the motions were deemed submitted the last date the State Defendants and
6 SCAG could file memoranda in support of their motion. The Court set a June 22,
7 2023 deadline for State Defendants and SCAG to file and serve reply memoranda in
8 support of their respective Rule 12 motions in its Order Granting Joint Stipulation
9 to Set Briefing Schedule on Motions Challenging First Amended Complaint. Doc.
10 No. 40. Under the Local Rules, the Court had 120 days from June 22, 2023 to make
11 a decision on the pending Rule 12 motions, which means the Local Rules imposed
12 a deadline of October 20, 2023.

13 Because the Court has yet to issue a decision, all counsel in this action have an
14 obligation to request, by October 30, 2023, to “file with the Court a joint request
15 that such decision be made without further delay.” L.R. 83-9.2.

16 Counsel for Plaintiffs City of Huntington Beach, Huntington Beach City
17 Council, Tony Strickland, and Gracey Van Der Mark (“Plaintiffs”) refused to join
18 this request. According to counsel for Plaintiffs, the matter was not submitted until
19 July 25, 2023. A copy of an email correspondence between counsel on this issue is
20 included as **Attachment A**.

21 Counsel for State Defendants wish to inform the Court that, in *People of*
22 *California, et al. v. City of Huntington Beach, et al.*, Legacy Case No. 30-2023-
23 01312235-CU-WM-CJC, which is currently pending in the Superior Court of
24 California for the County of San Diego, the City of Huntington Beach and the
25 Huntington Beach City Council have invoked the pendency of the above-captioned
26 federal action as a basis to stay and abate the above-referenced state court action,
27 which the People of California, by and through the Attorney General, and HCD
28 brought to bring the City into compliance with the State’s Housing Element Law.

Counsel for State Defendants and SCAG also wish to inform the Court that Plaintiffs have noticed impermissible apex depositions in the above-captioned federal action, including Governor Newsom and SCAG's Executive Director Kome Ajise. "High-ranking government officials are not normally subject to depositions." *Thomas v. Cate*, 715 F.Supp.2d 1023, 1048 (E.D. Cal. 2010) (citing *Kyle Eng'g Co. v. Kleppe*, 600 F.2d 226, 231 (9th Cir. 1979); *Bogan v. City of Boston*, 489 F.3d 417, 423 (1st Cir. 2007)). Plaintiffs are thus using the pendency of the above-captioned federal action—which does not raise a justiciable issue of federal law—to take discovery that is generally impermissible. A copy of Plaintiffs' Notice of Depositions is attached hereto as **Attachment B**. A decision without further delay would thus conserve judicial resources by preventing the parties from litigating discovery issues.

Dated: October 30, 2023

Respectfully submitted,

ROB BONTA
Attorney General of California
DANIEL A. OLIVAS
Senior Assistant Attorney General
DAVID PAI
Supervising Deputy Attorney General

/s/ Matthew T. Struhar

MATTHEW T. STRUHAR
THOMAS P. KINZINGER
Deputy Attorneys General
Attorneys for State Defendants

Dated: October 30, 2023

MEYERS NAVE

By: */s/ David Mehretu*

DEBORAH J. FOX
DAVID MEHRETU
KRISTOF D. SZOKE
Attorneys for Defendant
SOUTHERN CALIFORNIA ASSOCIATION
OF GOVERNMENTS

ATTACHMENT A

From: [Said, Nadin](#)
To: [Matthew Struhar](#); [Gates, Michael](#); [Kelemen, Chris](#); [Hoffman, Michele](#); [Fox, Deborah](#); [Mehretu, David](#); [Szoke, Kristof](#)
Cc: [Thomas Kinzinger](#)
Subject: RE: Huntington Beach, et al. v. Newsom, et al. - Joint Request for Decision
Date: Monday, October 30, 2023 9:46:16 AM
Attachments: [image001.png](#)

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

We will likely request a decision on the 130th day from July 25. If you think the City is wrong, then just submit without the City....

Nadin S. Said
Senior Deputy City Attorney
OFFICE OF THE CITY ATTORNEY
CITY OF HUNTINGTON BEACH
2000 Main St., Fourth Floor
Huntington Beach, CA 92648
Ph: (714) 536-5615

Confidentiality Notice: This email may contain material that is confidential, privileged and/or attorney work-product for the sole use of the addressee. Further, this email is protected under the Electronic Communications Privacy Act, 18 U.S.C. Sections 2510-2522. Any review by, reliance, or distribution by others or forwarding to others without express permission of the author is strictly prohibited. If you receive this transmission in error, you are advised that any disclosure, copying, distribution, or the taking of any action in reliance upon the communication is strictly prohibited. Moreover, any such inadvertent disclosure shall not compromise or waive the attorney-client privilege as to this communication. If you have received this communication in error, please immediately notify the sender and delete this e-mail. Thank you.

From: Matthew Struhar <Matthew.Struhar@doj.ca.gov>
Sent: Monday, October 30, 2023 9:39 AM
To: Said, Nadin <Nadin.Said@surfcity-hb.org>; Gates, Michael <Michael.Gates@surfcity-hb.org>; Kelemen, Chris <Chris@surfcity-hb.org>; Hoffman, Michele <michele.hoffman@surfcity-hb.org>; Fox, Deborah <dfox@meyersnave.com>; Mehretu, David <dmehretu@meyersnave.com>; Szoke, Kristof <kszoke@meyersnave.com>
Cc: Thomas Kinzinger <Thomas.Kinzinger@doj.ca.gov>
Subject: RE: Huntington Beach, et al. v. Newsom, et al. - Joint Request for Decision

Nadin,

The Local Rules are not ambiguous on this point. The motions were submitted on June 22, 2023. The Local Rules defined "submitted" in clear terms: *A motion shall be deemed submitted for decision (i) on the date the Court announces on the record in open court, at the conclusion of the hearing thereon, that the matter is submitted for decision; or (ii) on the date the last memorandum or other document is permitted to be filed. If no oral argument is conducted on the motion, a motion shall be deemed submitted for decision as of the date the last memorandum or other pleading is permitted to be filed.* (L.R. 83-9.1.1.)

As the below minute order shows, the court did not hear oral argument on the motion. That means the matters were deemed submitted as of the date the defendants' reply memoranda on their respective memoranda.

The Local Rules impose a duty on counsel: *If the Court does not render and files its decision on a submitted matter within 120 days of submission, **all counsel shall**, within 130 days after the matter is submitted for decision, file with the Court a joint request that such decision be made without further delay.*

Our obligation here is not subject to reasonable debate.

From: Said, Nadin <Nadin.Said@surfcity-hb.org>

Sent: Monday, October 30, 2023 9:02 AM

To: Matthew Struhar <Matthew.Struhar@doj.ca.gov>; Gates, Michael <Michael.Gates@surfcity-hb.org>; Kelemen, Chris <Chris@surfcity-hb.org>; Hoffman, Michele <michele.hoffman@surfcity-hb.org>; Fox, Deborah <dfox@meyersnave.com>; Mehretu, David <dmehretu@meyersnave.com>; Szoke, Kristof <kszoke@meyersnave.com>

Cc: Thomas Kinzinger <Thomas.Kinzinger@doj.ca.gov>

Subject: RE: Huntington Beach, et al. v. Newsom, et al. - Joint Request for Decision

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.
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Good morning,

After researching this local rule, it seems that the matter was taken under submission as of July 25, 2023. I do not want to offend our Honorable Judge by submitting a request prematurely and have him deny it. Please see the email we received in July 25, 2023, below. If you feel that the City is in error, please file this without our signature, as we do not believe the time has yet elapsed to request such decision. Thank you.

The following transaction was entered on 7/25/2023 at 12:53 PM PDT and filed on 7/25/2023

Case Name: City of Huntington Beach et al v. Gavin Newsom et al

Case Number: [8:23-cv-00421-FWS-ADS](#)

Filer:

Document Number: 66(No document attached)

Docket Text:

SCHEDULING NOTICE by Judge Fred W. Slaughter: Before the court are Defendants' Motions to Dismiss Case [44][45]. The court finds these matters appropriate for decision without oral argument. See Fed. R. Civ. P. 78(b); C.D. Cal. R. 7-15. Accordingly, the hearings set for July 27, 2023, at 10:00 a.m. are VACATED/OFF CALENDAR and the court takes the matters UNDER SUBMISSION. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. TEXT ONLY ENTRY. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (mku) TEXT ONLY ENTRY

From: Matthew Struhar <Matthew.Struhar@doj.ca.gov>

Sent: Friday, October 27, 2023 1:10 PM

To: Gates, Michael <Michael.Gates@surfcity-hb.org>; Said, Nadin <Nadin.Said@surfcity-hb.org>; Vigliotta, Mike <MVigliotta@surfcity-hb.org>; Kelemen, Chris <Chris@surfcity-hb.org>; Hoffman, Michele <michele.hoffman@surfcity-hb.org>; Fox, Deborah <dfox@meyersnave.com>; Mehretu, David <dmehretu@meyersnave.com>; Szoke, Kristof <kszoke@meyersnave.com>

Cc: Thomas Kinzinger <Thomas.Kinzinger@doj.ca.gov>

Subject: Huntington Beach, et al. v. Newsom, et al. - Joint Request for Decision

All,

Pursuant to the Local Rules, we need to file a joint request for a decision on the pending Rule 12 motions on or before Monday. I put together the attached. Let me know if you approve, and if we have authorization to affix your electronic signatures.

Thanks,
Matt



Matthew T. Struhar

Deputy Attorney General

Land Use and Conservation Section, Public Rights Division

Office of the Attorney General

1300 I Street | P.O. Box 944255 | Sacramento, CA 95814

Telephone (916) 210-7246 | Matthew.Struhar@doj.ca.gov

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ATTACHMENT B

1 MICHAEL E. GATES, City Attorney (SBN 258446)
2 NADIN S. SAID, Senior Deputy City Attorney (SBN 309802)
3 Office of the City Attorney
4 2000 Main Street, P.O. Box 190
5 Huntington Beach, CA 92648
6 (714) 536-5555
7 Email: Michael.Gates@surfcity-hb.org
8 Email: Nadin.Said@surfcity-hb.org

9 Attorneys for Plaintiffs
10 CITY OF HUNTINGTON BEACH, HUNTINGTON
11 BEACH CITY COUNCIL, MAYOR TONY STRICKLAND
12 and MAYOR PRO TEM GRACEY VAN DER MARK

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA

15 CITY OF HUNTINGTON BEACH, a
16 California Charter City, and Municipal
17 Corporation, the HUNTINGTON
18 BEACH CITY COUNCIL, MAYOR OF
19 HUNTINGTON BEACH, TONY
20 STRICKLAND, and
21 MAYOR PRO TEM OF HUNTINGTON
22 BEACH, GRACEY VAN DER MARK

23 Plaintiffs,

24 v.

25 GAVIN NEWSOM, in his official
26 capacity as Governor of the State of
27 California, and individually; GUSTAVO
28 VELASQUEZ in his official capacity as
Director of the State of California
Department of Housing and Community
Development, and individually; STATE
LEGISLATURE; STATE OF
CALIFORNIA DEPARTMENT OF
HOUSING AND COMMUNITY
DEVELOPMENT; SOUTHERN

CASE NO. 8:23-CV-00421-FWD-ADSx

**PLAINTIFFS' NOTICE OF
DEPOSITIONS OF GAVIN
NEWSOM, GUSTAVO
VELASQUEZ, MICHAEL
TILDEN, GRANT PARKS AND
KOME AJISE**

1 CALIFORNIA ASSOCIATION OF
 2 GOVERNMENTS; and
 3 DOES 1-50, inclusive,
 4 Defendants.

5 TO ALL PARTIES HEREIN AND TO THEIR ATTORNEYS OF RECORD:

6 PLEASE TAKE NOTICE that Plaintiffs CITY OF HUNTINGTON BEACH,
 7 HUNTINGTON BEACH CITY COUNCIL, MAYOR TONY STRICKLAND
 8 and MAYOR PRO TEM GRACEY VAN DER MARK will take the oral depositions
 9 of the following Individuals at the following dates and times in the office of
 10 attorneys for Plaintiffs, located at 2000 Main Street, 4th Floor, Huntington Beach,
 11 CA 92648, (714) 536-5555.

13 DEPONENT	DATE	TIME
14 Gustavo Velasquez (Defendant/Director 15 the State of California Department of 16 Housing and Community Development)	November 27, 2023	9:30 a.m.
17 Gavin Newsom (Defendant/ Governor 18 of the State of California)	November 28, 2023	9:30 a.m.
19 Michael Tilden (former California State 20 Auditor)	November 29, 2023	9:30 a.m.
21 Grant Parks (current California State 22 Auditor)	November 30, 2023	9:30 a.m.
23 Kome Ajise (Executive Director of 24 Defendant Southern California 25 Association of Governments)	December 1, 2023	9:30 a.m.

26 The deposition testimony of each individual will be taken stenographically
 27 and will be videotaped.

28 ///

///

1 The depositions will be taken under the provisions of Rule 30 of the Federal
2 Rules of Civil Procedure, and is based upon the records and files in the above-
3 entitled action.

4
5 Dated: October 18, 2023 MICHAEL E. GATES, CITY ATTORNEY

6
7 By: /s/ MICHAEL E. GATES
8 MICHAEL E. GATES, CITY ATTORNEY
9 Attorney for Plaintiffs,
10 CITY OF HUNTINGTON BEACH,
11 HUNTINGTON BEACH CITY COUNCIL,
12 MAYOR TONY STRICKLAND and
13 MAYOR PRO TEM GRACEY VAN DER MARK
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PROOF OF SERVICE

UNITED STATES DISTRICT COURT) ss.
CENTRAL DISTRICT OF CALIFORNIA)

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 2000 Main Street, Huntington Beach, CA 92648.

On October 19, 2023, I served the foregoing document described as:
PLAINTIFFS' NOTICE OF DEPOSITIONS OF GAVIN NEWSOM, GUSTAVO VELASQUEZ, MICHAEL TILDEN, GRANT PARKS AND KOME AJISE on the interested parties in this action by placing a true copy thereof in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

a. ☒ BY MAIL -- I caused such envelope to be deposited in the mail at Huntington Beach, California. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the City's practice of collection and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of a party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in the affidavit.

b. ☒ BY ELECTRONIC SERVICE to the email addresses listed on the attached service list.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on October 19, 2023, at Huntington Beach, California.

CHRISTINA KELEMEN



SERVICE LIST

ROB BONTA,
Attorney General of California
DANIEL A. OLIVAS,
Senior Assistant Attorney General
DAVID PAI,
Supervising Deputy Attorney General
MATTHEW STRUHAR,
Deputy Attorney General
THOMAS KINZINGER,
Deputy Attorney General
1300 I Street, 15th Floor
Sacramento, CA 95814

Attorneys for Defendants Gavin Newsom,
Gustavo Velasquez, and California
Department of Housing and Community
Development
T: (916) 210-7246; Fax: (916) 731-2121
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Deborah J. Fox, Esq.
David Mehretu, Esq.
Kristof D. Szoke, Esq.
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dmehretu@meyersnave.com
kszoke@meyersnave.com

CERTIFICATE OF SERVICE

Case Name: **City of Huntington Beach, et al.** No. **8:23-cv-00421**
v. Gavin Newsom, et al.

I hereby certify that on October 30, 2023, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

CORRECTED REQUEST FOR DECISIONS

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on October 30, 2023, at Los Angeles, California.

J. Sissov

Declarant

/s/ J. Sissov

Signature